IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 7TH SEPTEMBER 2007 / 16TH BHADRA 1929

Bail Appl..No. 5383 of 2007()

CC.652/2007 of J.M.F.C.,AMBALAPUZHA
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PETITIONERS ACCUSED
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1. **K.RAVEENDRAN.S/O. KRISHNAN,**
   KATTUNKAL HOUSE,VANDANAM PO, ALAPPUZHA-5.

2. **C.N. PRABHAKARAN, S/O. NANU,**
   PREM NIVAS,VANDANAM PO, ALAPPUZHA-5.

3. **K.RAJU S/O. KUNJUKUNJU, MANALAYIL HOUSE,**
   VANDANAM PO, ALAPPUZHA-5.

BY ADV. SRI.P.S.KRISHNA PILLAI

RESPONDENTS: RESPONDENTS
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1. **STATE OF KERALA ,REPRESENTED BY THE**
   DIRECTOR OF PROSECUTIONS, HIGH COURT OF KERALA,
   ERNAKULAM.

2. **THE SUB INSPECTOR OF POLICE,**
   PUNNAPPRA P.O., ALAPPUZHA DISTRICT.

3. **K.S.ANIRUDHAN, KAVITHA PUNNAPPRA PO**
   ALAPPUZHA.

BY PUBLIC PROSECUTOR SRI. JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 07/09/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

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B.A.No.5383 of 2007

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Dated this the 7th day of September, 2007

O R D E R

Application for anticipatory bail. The petitioners are accused in a private complaint filed by the 3rd respondent/complainant. The complainant has filed the complaint making allegations under Sec.406 IPC. When the complaint came up before the learned Magistrate for consideration, the learned Magistrate, after recording the sworn statement of the complainant, has now taken cognizance and at the first instance has issued a warrant of arrest against the petitioners. The petitioners submit that they are absolutely innocent. They submit that they are willing to appear before the learned Magistrate and seek regular bail. The petitioners submit that warrants of arrest have unnecessarily been issued against the petitioners. They apprehend imminent arrest.

2. The learned counsel for the petitioners submits that the petitioners are the officer bearers of SNDP Yogam which conducts certain financial transactions. In any view of the matter, there is

no personal liability and injustice would result if they were compelled to endure the trauma of arrest and detention. The petitioners are willing to surrender before the learned Magistrate and seek regular bail. In these circumstances, It is prayed that the petitioners may be spared of the undeserved trauma of arrest and incarceration.

3. Notice was given to the learned Public Prosecutor . Having considered all the relevant inputs , I am satisfied that there is merit in the submission of the learned counsel for the petitioner.

4. After the decision in Bharat Chaudhary v. State of Bihar [A.I.R 2003 S.C 4662], it is trite that powers under Section 438 Cr.P.C can be invoked even in a case where a person apprehends arrest in execution of processes issued by a Criminal court after cognizance has been taken.

5. Subject to appropriate safe guards which will ensure that the petitioners shall appear and seek regular bail from the learned Magistrate, I am satisfied that anticipatory bail can be granted to the petitioners. The following directions under Sec.438 are hence issued in favour of the petitioners.

i) The warrants of arrest issued against the petitioners in C.C.No.652/2007 shall be kept in abeyance till 17.9.07.

ii) The petitioners shall surrender before the learned Magistrate and seek regular bail on 17.9.07. Their applications for regular bail shall be considered by the learned Magistrate on merits, in accordance with law and expeditiously- on the date of surrender itself.

Hand over a copy of this order to the learned counsel for the petitioner today itself.

(R.BASANT, JUDGE)

sj

/True Copy/

PA to Judge